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In re Application of :  
CAO :  
Application No.: 10/070,289 :  
PCT No.: PCT/CN00/00254 :  
Int. Filing Date: 30 August 2000 : DECISION  
Priority Date: 07 September 1999 :  
Attorney Docket No.: 13935.1USWO :  
For: A MAMMARY PROSTHESIS MADE OF :  
POLYACRYLAMIDE HYDROGEL :

This decision is in response to the submission filed on 14 February 2003.

### **BACKGROUND**

On 30 August 2000, applicant filed international application PCT/CN00/00254, which claimed a priority date of 07 September 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 March 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 07 March 2002.

On 28 February 2002, applicants filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a declaration of the inventor, a translation of the international application into English, and an assertion of small entity status.

On 10 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required because the declaration of the inventor filed 28 February 2002 did not identify the citizenship of each inventor and that the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date was also required.

On 15 July 2002, applicants filed a submission including, *inter alia*, a transmittal letter and a declaration of the inventor. The transmittal letter indicated the serial number as 10/010289. However, the applicant, title, and attorney docket number listed on the transmittal letter are not consistent with the applicant, title and attorney docket number for 10/010289. This submission has been treated as a petition under 37 CFR 1.182.

On 31 January 2003, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned as to the United States for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 10 May 2002.

On 14 February 2003, applicants filed the instant submission, which was accompanied by, *inter alia*, a copy of a date-stamped postcard receipt and a copy of the declaration of the inventor. This submission has been treated as a petition under 37 CFR 1.181.

### DISCUSSION

#### Petition Under 37 CFR 1.181 filed 14 February 2003

The original papers filed 15 July 2002 have been located. Accordingly, the petition under 37 CFR 1.181 is DISMISSED as MOOT.

#### Petition Under 37 CFR 1.182 filed 15 July 2002

The petition fee of \$130 has been charged to Deposit Account No. 13-2725. A review of the application file including counsel's statements in the petition filed 14 February 2003, as well as a review of the USPTO file for 10/010,289, reveals that the indication of application 10/010,289 was incorrect, and that the present application should in fact be application number 10/070,289. The NOTIFICATION OF ABANDONMENT mailed 31 January 2003 is hereby VACATED.

#### Declaration of Inventors

The declaration of the inventor filed 15 July 2002 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(e) has been paid.

### CONCLUSION

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 31 January 2003 is hereby VACATED.

For the reasons set forth above, the petition under 37 CFR 1.181 filed 14 February 2003 is DISMISSED as MOOT.

For the reasons set forth above, the petition under 37 CFR 1.182 filed 15 July 2002 is

**GRANTED.**

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.



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